

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANGEL PINEDA SANCHEZ,

Petitioner,

v.

TRISTAN LEMON,

Respondents.

No. 2:23-cv-01115 DB P

ORDER

Petitioner, a state prisoner, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner filed an in forma pauperis affidavit in which he states he is presently employed. (ECF No. 5 at 1.) In addition, the attached trust account statement reflects that petitioner had a balance of \$1,139.10 when he filed this action. On September 15, 2023, the last day reflected on the statement, petitioner had a balance of \$1,528.45.

Pursuant to federal statute, a filing fee of \$5.00 is required to commence a habeas corpus action in federal district court. 28 U.S.C. § 1914(a). The court may authorize the commencement of an action “without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor.” 28 U.S.C. § 1915(a).

Petitioner was able to pay the filing fee and costs when he filed this action. Thus, petitioner has made an inadequate showing of indigency. See Alexander v. Carson Adult High Sch., 9 F.3d 1448 (9th Cir. 1993). Petitioner will therefore be granted thirty (30) days in which to

1 either submit the appropriate filing fee to the Clerk of the Court, or, if he cannot do so, respond in
2 writing explaining why he cannot do so.

3 Petitioner is cautioned that failure to respond to this order will result in a recommendation
4 that the application to proceed in forma pauperis be denied and the instant action be dismissed
5 without prejudice.

6 Accordingly, IT IS HEREBY ORDERED that, within thirty (30) days from the date of
7 this order, petitioner shall either submit the \$5.00 filing fee or show cause in writing why he is
8 unable to do so.

9 Dated: October 16, 2023

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE